



STATE OF DELAWARE  
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**MEMORANDUM**

DATE: December 16, 2009

TO: Mr. Mitchell G. Crane, Esq.  
Delaware Department of Insurance

FROM: Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

RE: 13 DE Reg. 587 [Department of Insurance Health Insurance Rate Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Insurance's (DOIs) proposal to amend its regulations regarding procedures and timelines for all rate filings made by insurers. The proposed regulations were published as 13 DE Reg. 587 in the November 1, 2009 issue of the Register of Regulations. As background, the Insurance Commissioner has historically enjoyed statutory authority to review insurance rates to ensure that they are not "excessive, inadequate, or unfairly discriminatory". Title 18 Del.C. §2503. However, health insurance was exempt. Legislation (S.S. 1 for S.B. 35) which was supported by the SCPD was finally enacted last summer. The new law removes the health insurance exemption, thus authorizing the Insurance Commissioner to conduct rate reviews of health insurance policies. The DOI has now issued a regulation to define the process and standards applicable to such reviews. SCPD recognizes that comments were requested by December 7, 2009, but still has the following observations.

First, in §5.1, the word "filing" is stricken. It should be retained. The title to the section is "Contents of Complete Filings". The sentence would then read as follows: "Each rate filing which includes the following shall be presumed a complete filing, subject to requests for time for review as the Commissioner may make:..."

Second, the Department adopts a new approach in §5.1.2. Instead of listing the contents of rate filings in the actual regulation, insurers are required to provide submissions based on information contained in Departmental bulletin or circular letter. However, §6.2 would literally disallow the Department from disapproving a filing based on non-conformity with standards contained in a circular letter. The term "circular letter" should be inserted in both the first and second sentences in §6.2 to conform to §5.1.2. For similar reasons, the term "circular letter" should also be inserted in §§6.5.2.1.2 and 6.5.2.1.3.

§§6.5.2.1.2 and 6.5.2.1.3.

Third, §6.3 would literally bar the Department from disapproving a filing based on reasons compiled in §6.5.2.1 or lack of complete filings conforming to the procedural requirements in the regulation, bulletins, or circular letters. The Department may wish to either eliminate the final sentence in §6.3 or embellish it to include other bases for disapproval.

Fourth, in §8.1, first sentence, SCPD believes the word “or” between “ratio” and “end” should be “at”.

Fifth, in §8.1, the Department may wish to consider defining the acronyms “OR”, “CR”, “GR”, and “NC” in its table.

Sixth, the new statute includes the following authorization:

If the Commissioner shall determine that additional time is needed to review a rate filing, the Commissioner shall, within 25 days after receipt of the filing, notify the filer that the review of the filing shall be extended up to 90 days after the receipt of the filing, unless the insurer shall agree to a longer term of review.

Title 18 Del.C. §2506(c)

This authorization is absent from the proposed regulation. The Department may wish to consider including it.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

cc: Mr. Brian Hartman, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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